

COUNSEL LISTED ON LAST PAGE

E-FILED - 8/22/07

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

XOFT, INC.,	)	Case No. CV 05-05312 RMW
)	
Plaintiff,	)	[] ORDER DENYING XOFT'S
	)	MOTION FOR SUMMARY JUDGMENT OF
vs.	)	NON-INFRINGEMENT ON ALL CLAIMS
	)	IN U.S. PATENT NO. 5,913,813 AND
CYTYC CORPORATION and PROXIMA	)	GRANTING CYTYC'S CROSS-MOTION
THERAPEUTICS, INC.,	)	FOR SUMMARY JUDGMENT OF
	)	INFRINGEMENT OF THE
Defendants.	)	RADIONUCLIDE LIMITATION IN ALL
	)	CLAIMS IN U.S. PATENT NO. 5,913,813.
)	
AND RELATED COUNTERCLAIMS.)	
)	

ORDER

The Court, having considered Cytac Corporation's Motion To File Under Seal Confidential Version Of Defendant And Counterclaimant Cytac Corporation's Opposition To Xofter's Motion For Summary Judgment Of Non-Infringement On All Claims In U.S. Patent No. 5,913,813 And Cross-Motion For Summary Judgment Of Infringement Of The Radionuclide Limitation In All Claims In U.S. Patent No. 5,913,813 and Certain Exhibits To The Declaration Of Henry C. Su In Support Therof and any declaration filed by Xofter, Inc. in support of the Motion, finds that good cause exists under Civil L.R. 79-5© and (d) for the requested relief and hereby orders that the Motion is GRANTED in its entirety.

The clerk shall maintain under seal the following documents and exhibits:

1. The confidential version of Cytac Corporation's Opposition To Xofter's Motion For Summary Judgment Of Non-Infringement On All Claims In U.S. Patent No. 5,913,813 And Cross-Motion For Summary Judgment Of Infringement Of The Radionuclide Limitation In All Claims In U.S. Patent No. 5,913,813.

2. Exhibits A, B, C, J, and M to the Declaration of Henry Su In Support Of Cytac Corporation's Opposition To Xofter's Motion For Summary Judgment Of Non-Infringement On All Claims In U.S. Patent No. 5,913,813 And Cross-Motion For Summary Judgment Of Infringement Of The Radionuclide Limitation In All Claims In U.S. Patent No. 5,913,813.

IT IS SO ORDERED.

Dated: 8/22/07

RONALD M. WHYTE
United States District Judge

1 James W. Geriak (SBN 32871)
2 jgeriak@orrick.com
3 Kurt T. Mulville (SBN 149218)
4 kmulville@orrick.com
5 Thomas J. Gray (SBN 191411)
6 tgray@orrick.com
7 Mark Stirrat (SBN 229448)
8 mstirrat@orrick.com
9 ORRICK, HERRINGTON & SUTCLIFFE LLP
10 4 Park Plaza, Suite 1600
11 Irvine, CA 92614
12 Telephone: (949) 567-6700
13 Facsimile: (949) 567-6710

8 Monte Cooper (SBN 196746)
9 mcooper@orrick.com
10 ORRICK, HERRINGTON & SUTCLIFFE LLP
11 1000 Marsh Road
12 Menlo Park, CA 94025
13 Telephone: (650) 614-7400
14 Facsimile: (650) 614-7401

12 Attorneys for Plaintiff XOFT, INC.

15 Henry C. Bunsow (SBN 60707)
16 bunsowh@howrey.com
17 Henry C. Su (SBN 211202)
18 suh@howrey.com
19 HOWREY LLP
20 525 Market Street, Suite 3600
21 San Francisco, California 94105
22 Telephone: (415) 848-4900
23 Facsimile: (415) 848-4999

20 Attorneys for Defendants CYTYC CORPORATION and CYTYC SURGICAL
21 PRODUCTS II, INC.